

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

Joy Rahaman,

Plaintiff,

Case No. 20-11628

v.

Judith E. Levy

United States District Judge

American Connect Family Prop  
and Cas Ins.,

Mag. Judge Elizabeth A. Stafford

Defendant.

\_\_\_\_\_ /

**ORDER ADOPTING REPORT AND RECOMMENDATION [32]**

Before the Court is Magistrate Judge R. Steven Whalen's<sup>1</sup> Report and Recommendation recommending the Court grant Defendant American Connect Prop and Cas Ins.'s motion for summary judgment. (ECF No. 21.) The parties were required to file specific written objections, if any, within 14 days of service. Fed. R. Civ. P. 72(b)(2); E.D. Mich. L.R. 72.1(d). No objections were filed. The Court has nevertheless carefully

---

<sup>1</sup> The Report and Recommendation regarding Defendant American Connect Prop and Cas Ins.'s motion for partial summary judgment (ECF No. 21) was entered by Magistrate Judge R. Steven Whalen on May 8, 2021. (ECF No. 32.) On June 24, 2021, the case was reassigned to Judge Elizabeth A. Stafford pursuant to Administrative Order 21-AO-013.

reviewed the Report and Recommendation and concurs in the reasoning and result. Additionally, while the Report and Recommendation did not address some arguments included in the briefing,<sup>2</sup> the Court has also considered these arguments and still adopts the outcome as correct. Accordingly,

The Report and Recommendation (ECF No. 32) is ADOPTED;

Defendant's motion for partial summary judgment (ECF No. 21) is GRANTED; and

Plaintiff's claims for first-party PIP benefits and third-party negligence are DISMISSED WITH PREJUDICE.<sup>3</sup>

IT IS SO ORDERED.

Dated: September 23, 2021  
Ann Arbor, Michigan

s/Judith E. Levy  
JUDITH E. LEVY  
United States District Judge

---

<sup>2</sup> Plaintiff's response to Defendant's motion for partial summary judgment is styled as a response but also requests summary judgment be granted for Plaintiff on her claims for first-party PIP benefits and third-party negligence. (See ECF No. 25, PageID.869, 898.) To the extent Plaintiff seeks summary judgment as a nonmovant under Federal Rule of Civil Procedure 56(f)(1) for these two claims, the Court will deny her request. See, e.g., *Electrojet Inc. v. Irbit Motorworks of Am., Inc.*, No. 18-12978, 2020 WL 3440579, at \*9 (E.D. Mich. Apr. 9, 2020) (denying the plaintiff's request for summary judgment made in its response brief to the defendant's motion for summary judgment in light of fact that Fed. R. Civ. P. 56(f)(1) did not create a substitution for a cross-motion to summary judgment).

<sup>3</sup> By failing to object to the Report and Recommendation, the parties have forfeited any further right of appeal. *United States v. Wandahsega*, 924 F.3d 868, 878 (6th Cir. 2019); see also *Berkshire v. Beauvais*, 928 F.3d 520, 530 (6th Cir. 2019).

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on September 23, 2021.

s/William Barkholz  
WILLIAM BARKHOLZ  
Case Manager